

KAUAI PLANNING COMMISSION
REGULAR MEETING

Tuesday, March 8, 2016

9:00 a.m. or Soon Thereafter
Līhu'e Civic Center, Moikeha Building
Meeting Room 2A-2B
4444 Rice Street, Lihue, Kauai, Hawai'i

AGENDA

SWEARING IN OF NEW COMMISSIONER

- A. **CALL TO ORDER**
- B. **ROLL CALL**
- C. **APPROVAL OF AGENDA**
- D. **MINUTES of the meeting(s) of the Planning Commission**
- E. **RECEIPT OF ITEMS FOR THE RECORD**
- F. **HEARINGS AND PUBLIC COMMENT** (Noticed hearings will not commence until 9:00 a.m. or soon thereafter.) Individuals may orally testify on items on this agenda during the Public Comment Period. Please call the Planning Department prior to the meeting or notify Commission Staff at the meeting site. Testimony shall also be accepted when the agenda item is taken up by the Commission. However if an individual has already testified during this period, additional testimony at the agenda item testimony may be allowed at the discretion of the Chair. Testifiers shall limit their testimony to three (3) minutes, but may be extended longer at the discretion of the Chair. Written testimony is also accepted. An original and twelve (12) copies of written testimony can be hand delivered to the Planning Department or submitted to Commission Staff at the meeting site.
 - 1. **Continued Agency Hearing** (NONE)
 - 2. **New Agency Hearing** (NONE)
 - 3. **Continued Public Hearing** (NONE)
 - 4. **New Public Hearing** (NONE)
 - 5. **All remaining public testimony pursuant to HRS 92 (Sunshine Law)**

G. CONSENT CALENDAR

1. Status Reports

- a. 2016 Annual Status Report for Special Management Area Use Permit SMA(U)-2006-4, Project Development Use Permit PDU-2006-6 and Class IV Zoning Permit Z-IV-2006-9, Tax Map Key 4-3-002:015, 16 & 20 = ***Coconut Beach Development, LLC***.

1. Director's Report pertaining to this matter.

2. Director's Report(s) for Project(s) Scheduled for Agency Hearing on 3/22/16. **(NONE)**

H. EXECUTIVE SESSION

1. Pursuant to Hawaii Revised Statutes sections 92-4, 92-5(a)(4), the purpose of this executive session for the Planning Commission is to consult with the County's legal counsel on questions relating to Zoning Amendment ZA-2016-3 Definition of Applicant. This consultation involves consideration of the Commission's powers, duties, privileges, immunities, and/or liabilities with regard to this agenda item.

I. GENERAL BUSINESS MATTERS

1. Clerk of the Commission's Recommendation to Refer an Appeal of the Planning Director's Decision by ***Michael Levy & Alex Boilini Trust (Marjorie's Bed & Breakfast Inn)***, related to the Notice of Violation and Order to Pay Fines related to Use Permit U-2015-20, Special Permit SP-2015-5 and Class IV Zoning Permit Z-IV-2015-21, Tax Map Key (4) 2-6-1: 92, Lawai, Kauai, to a Hearings Officer (Contested Case No. CC-2016-1); Request for Delegation of Authority to the Clerk of the Commission to Procure and Appoint a Hearings Officer on Behalf of the Commission for the Instant Appeal.
 - a. Memorandum (2/19/16) from Michael A. Dahilig, Clerk of the Commission to Honorable Commissioners of the Kauai Planning Commission.
2. Clerk of the Commission's Recommendation to Refer an Appeal of the Planning Director's Decision by ***William I. & Catherine Cower***, related to the Notice of Violation and Order to Pay Fines related to Use Permit U-2015-25, Special Permit SP-2015-6 and Class IV Zoning Permit Z-IV-2015-26, Tax Map Key (4) 25002037, Lawai, Kauai, to a Hearings Officer (Contested Case No. CC-2016-2); Request for Delegation of Authority to the Clerk of the Commission to Procure and Appoint a Hearings Officer on Behalf of the Commission for the Instant Appeal.
 - a. Memorandum (2/23/16) from Michael A. Dahilig, Clerk of the Commission to Honorable Commissioners of the Kauai Planning Commission.
3. Clerk of the Commission's Recommendation to Refer an Appeal of the Planning Director's Decision by ***Mohala Ke Ola Management***, related to the Notice of Violation and Order to Pay Fines related to Use Permit U-2015-14 and Class IV Zoning Permit Z-IV-2015-15, Tax Map Key (4) 42009011, Kapaa, Kauai, to a Hearings Officer (Contested Case No. CC-2016-3); Request for Delegation of Authority to the Clerk of the Commission to Procure and Appoint a Hearings Officer on Behalf of the Commission for the Instant Appeal.
 - a. Memorandum (2/25/16) from Michael A. Dahilig, Clerk of the Commission to Honorable Commissioners of the Kauai Planning Commission.

I. GENERAL BUSINESS MATTERS (Cont'd)

4. Clerk of the Commission's Recommendation to Refer an Appeal of the the Planning Director's Decision by ***Jonathan Chun, Esq., representing John & Shannon Wark***, related to the Notice of Forfeiture of Non-Conforming Use Certificate TVNCU#4219 (Anini Kai) related to Special Permit SP-2011-13, Tax Map Key (4) 5-3-04:29, Anini, Kauai, to a Hearings Officer (Contested Case No. CC-2016-5); Request for Delegation of Authority to the Clerk of the Commission to Procure and Appoint a Hearings Officer on Behalf of the Commission for the Instant Appeal.
 - a. Memorandum (1/29/16) from Michael A. Dahilig, Clerk of the Commission to Honorable Commissioners of the Kauai Planning Commission.
5. Clerk of the Commission's Recommendation to Refer an Appeal of the the Planning Director's Decision by ***Jonathan Chun, Esq., representing Michael Chandler***, related to the Notice of Forfeiture of Non-Conforming Use Certificate TVNCU#4222 (Hale O Lalani) related to Special Permit SP-2012-1, Tax Map Key (4) 5-3-03:45, Kilauea, Kauai, to a Hearings Officer (Contested Case No. CC-2016-4); Request for Delegation of Authority to the Clerk of the Commission to Procure and Appoint a Hearings Officer on Behalf of the Commission for the Instant Appeal.
 - a. Memorandum (1/29/16) from Michael A. Dahilig, Clerk of the Commission to Honorable Commissioners of the Kauai Planning Commission.
6. Special Management Area Minor Permit SMA(M)-2013-22 to accommodate commercial tour boat loading and unloading activities at Black Pot Beach Park in Hanalei (pursuant to the "Peddlers and Concessionaires" ordinance), situated at the northern terminus of Weke Road, further identified as Tax Map Keys 5-5-001: 004 & 011, and containing a total land area of 6.19 acres = ***County of Kaua'i, Department of Parks and Recreation***.
 - a. Commission action to appoint Commissioner Angela Anderson to serve as Hearings Officer and conduct the contested case hearing on behalf of the Commission and provide a recommended Findings of Fact, Conclusions of Law and Decision and Order for Commission entertainment. [Commissioner Anderson appointed as Hearings Officer 7/8/14.]
7. Request to eliminate Condition No. 4 of Project Development Use Permit PDU-2012-1, Class IV Zoning Permit Z-IV-2012-7, Use Permit U-2012-7 and Variance Permit V-2012-5, Tax Map Key 5-2-023:027 & 028, Kilauea, Kauai = ***Kilauea Ventures, LLC***.
 - a. Director's Report pertaining to this matter.

J. COMMUNICATION (For Action) (NONE)

K. COMMITTEE REPORTS

1. **Subdivision** Subdivision Action matters listed in the Subdivision Committee Agenda (attached).

L. UNFINISHED BUSINESS (For Action)

1. Amendment to Special Management Area Use Permit SMA(U)-2008-5, Use Permit U-2008-4 and Class IV Zoning Permit Z-IV-2008-6 in conjunction with Status Report in the matter of *Charles Somers, as Trustee of the Charles Somers Living Trust dated November 12, 2002, and West Sunset 32 Phase 1 LLC*. [Amendment hearing closed and deferred 4/30/13 and 1/28/14.]
 - a. Supplemental No. 7 Director's Report pertaining to this matter.
2. Zoning Amendment ZA-2016-3: A bill for an ordinance Amending Chapter 8, Kauai County Code 1987, as amended, relating to Definitions = *County of Kauai, Planning Department*. [Deferred 2/23/16.]
 - a. Supplemental No. 1 Director's Report pertaining to this matter.

M. NEW BUSINESS

1. **For Action – See Agenda F for Project Descriptions**

N. ANNOUNCEMENTS

1. Topics for Future Meetings
2. The following scheduled Planning Commission meeting will be held at 9:00 a.m., or shortly thereafter at the Lihue Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Lihue, Kauai, Hawaii 96766 on **Tuesday, April 12, 2016**.

O. ADJOURNMENT

EXECUTIVE SESSION: The Commission may go into an executive session on an agenda item for one of the permitted purposes listed in Section 92-5(a) Hawaii Revised Statutes ("H.R.S."), without noticing the executive session on the agenda where the executive session was not anticipated in advance. HRS Section 92-7(a). The executive session may only be held, however, upon an affirmative vote of two-thirds of the members present, which must also be the majority of the members to which the board is entitled. HRS Section 92-4. The reason for holding the executive session shall be publicly announced.

NOTE: Special accommodations and sign language interpreters are available upon request five (5) days prior to the meeting date, to the County Planning Department, 4444 Rice Street, Lihue, Hawaii 96766. Telephone: 241-4050.

KAUA'I PLANNING COMMISSION
SUBDIVISION COMMITTEE MEETING
Līhu'e Civic Center, Mo'ikeha Building
Meeting Room 2A-2B
4444 Rice Street, Līhu'e, Hawaii 96766

Tuesday, March 8, 2016, 8:30 A.M.

AGENDA

- A. **CALL TO ORDER**
- B. **ROLL CALL**
- C. **APPROVAL OF AGENDA**
- D. **MINUTES of the meeting(s) of the Subdivision Committee** (None)
- E. **RECEIPT OF ITEMS FOR THE RECORD** (None)
- F. **HEARINGS AND PUBLIC COMMENT**

Individuals may orally testify on items on this agenda during the Public Comment Period. Please call the Planning Department prior to the meeting or notify Commission Staff at the meeting site. Testimony may also be accepted when the agenda item is taken up by the Commission at the discretion of the Chair. Testifiers shall limit their testimony to three (3) minutes, but may be extended longer at the discretion of the Chair. Written testimony is also accepted. An original and twelve (12) copies of written testimony can be hand delivered to the Planning Department or submitted to Commission Staff at the meeting site.

- G. **GENERAL BUSINESS MATTERS** (None)
- H. **UNFINISHED BUSINESS** (None)
- I. **NEW BUSINESS** (For Action)

- 1. **Tentative Subdivision Approval**
 - a. Subdivision Application No. S-2016-12
(FIRST ASSEMBLY OF GOD)
Proposed 2-lot Subdivision
TMK: (4) 3-8-002:015
Hanamā'ulu, Kaua'i
- 1. Subdivision Report pertaining to this matter.

I. NEW BUSINESS (Continued)

1. Tentative Subdivision Approval (Cont'd)
 - b. Subdivision Application No. S-2016-14
(HELEN MARTIN)
Proposed 3-lot Subdivision
TMK: (4) 2-4-002:003, 016
Kalāheo, Kauaʻi
 1. Subdivision Report pertaining to this matter.
2. Final Subdivision Map Approval
 - a. Subdivision Application No. S-2007-16
(JACK NISHIMOTO, ET. AL.)
Proposed 8-lot Subdivision
TMK: (4) 3-2-002:033-036
Niumalu, Kauaʻi
 1. Subdivision Report pertaining to this matter.

J. ADJOURNMENT

NOTE: Special accommodations and sign language interpreters are available upon request five (5) days prior to the meeting date, to the County Planning Department, 4444 Rice Street, Suite A473, Lihua, Hawaiʻi 96766. Telephone: (808) 241-4050.

Pursuant to Section 8-27.8 (6) of the Kaua'i County Code (1987), as amended, the following shoreline setback determinations by the Director are disclosed for purposes of public notification.

SHORELINE SETBACK DETERMINATIONS

Application No.	Name of Applicant(s)	Property I.D. (Tax Map Key)	Location	Reasons
SSD-2016-47	AOAO Hale Awapuhi	4-1-005:001	Kapaa	Replace windows and sliders
SSD-2016-48	Grand Hyatt	2-9-001:002	Poipu	Bathroom alteration at pool